

JOURNAL OF THE SENATE

NINETIETH SESSION

THIRTY-FIRST DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, March 4, 2015

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Rev. Josh Baumann, followed by the Pledge of Allegiance led by Senate pages Emalee Larson and Bridget Redder.

Roll Call: All members present except Sens. Otten (Ernie) and Jensen (Phil) who were excused.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the thirtieth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

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1 Also MR. PRESIDENT:

2 The Committee on Local Government respectfully reports that it has had under
3 consideration HB 1194 and returns the same with the recommendation that said bill do pass and
4 be placed on the consent calendar.

5 Also MR. PRESIDENT:

6 The Committee on Local Government respectfully reports that it has had under
7 consideration HB 1083 which was deferred to the 41st Legislative Day.

8 Respectfully submitted,
9 Bob Ewing, Chair

10 Also MR. PRESIDENT:

11 The Committee on Health and Human Services respectfully reports that it has had under
12 consideration the nomination of Gloria Pearson of Yankton County, Yankton, South Dakota,
13 to the position of Secretary of the Department of Human Services, and returns the same with
14 the recommendation that the Senate advise and consent to the confirmation of said
15 reappointment and be placed on the consent calendar.

16 Also MR. PRESIDENT:

17 The Committee on Health and Human Services respectfully reports that it has had under
18 consideration the nomination of Lynne Valenti of Hughes County, Pierre, South Dakota, as the
19 Secretary of the Department of Social Services, and returns the same with the recommendation
20 that the Senate advise and consent to the confirmation of said reappointment and be placed on
21 the consent calendar.

22 Also MR. PRESIDENT:

23 The Committee on Health and Human Services respectfully reports that it has had under
24 consideration HB 1230 which was tabled.

25 Respectfully submitted,
26 Bruce Rampelberg, Chair

27 Also MR. PRESIDENT:

28 The Committee on Transportation respectfully reports that it has had under consideration
29 HB 1020 and returns the same with the recommendation that said bill do pass.

1 Also MR. PRESIDENT:

2 The Committee on Transportation respectfully reports that it has had under consideration
3 the nomination of Jeffery D. Burket of Lawrence County, Spearfish, South Dakota, to the South
4 Dakota State Railroad Board and returns the same with the recommendation that the Senate
5 advise and consent to the confirmation of said appointment and that said appointment be placed
6 on the consent calendar.

7 Also MR. PRESIDENT:

8 The Committee on Transportation respectfully reports that it has had under consideration
9 the nomination of Jerry Cope of Pennington County, Rapid City, South Dakota, to the South
10 Dakota State Railroad Board and returns the same with the recommendation that the Senate
11 advise and consent to the confirmation of said appointment and that said appointment be placed
12 on the consent calendar.

13 Also MR. PRESIDENT:

14 The Committee on Transportation respectfully reports that it has had under consideration
15 the nomination of Harlan J. Quenzer of Davison County, Mitchell, South Dakota, to the South
16 Dakota State Railroad Board and returns the same with the recommendation that the Senate
17 advise and consent to the confirmation of said appointment and that said appointment be placed
18 on the consent calendar.

19 Also MR. PRESIDENT:

20 The Committee on Transportation respectfully reports that it has had under consideration
21 the nomination of Todd Yeaton of Brule County, Kimball, South Dakota, to the South Dakota
22 State Railroad Board and returns the same with the recommendation that the Senate advise and
23 consent to the confirmation of said reappointment and that said reappointment be placed on the
24 consent calendar.

25 Also MR. PRESIDENT:

26 The Committee on Transportation respectfully reports that it has had under consideration
27 the nomination of Carl Anderson of Brown County, Aberdeen, South Dakota, to the South
28 Dakota State Railroad Board and returns the same with the recommendation that the Senate
29 advise and consent to the confirmation of said reappointment and that said reappointment be
30 placed on the consent calendar.

1 Also MR. PRESIDENT:

2 The Committee on Transportation respectfully reports that it has had under consideration
3 the nomination of Sheldon E. Cotton of Brookings County, Volga, South Dakota, to the South
4 Dakota State Railroad Board and returns the same with the recommendation that the Senate
5 advise and consent to the confirmation of said reappointment and that said reappointment be
6 placed on the consent calendar.

7 Also MR. PRESIDENT:

8 The Committee on Transportation respectfully reports that it has had under consideration
9 the nomination of Gary Doering of Beadle County, Cavour, South Dakota, to the South Dakota
10 State Railroad Board and returns the same with the recommendation that the Senate advise and
11 consent to the confirmation of said reappointment and that said reappointment be placed on the
12 consent calendar.

13 Respectfully submitted,
14 Mike Vehle, Chair

15 Also MR. PRESIDENT:

16 The Committee on State Affairs respectfully reports that it has had under consideration
17 HJR 1005 and HB 1169, 1170, 1171, and 1176 and returns the same with the recommendation
18 that said bills and resolution do pass.

19 Also MR. PRESIDENT:

20 The Committee on State Affairs respectfully reports that it has had under consideration the
21 nomination of Kimberley Malsam-Rysdon of Hughes County, Pierre, South Dakota, to the
22 position of Secretary of the Department of Health and returns the same with the
23 recommendation that the Senate advise and consent to the confirmation of said appointment.

24 Also MR. PRESIDENT:

25 The Committee on State Affairs respectfully reports that it has had under consideration the
26 nomination of Major General Timothy A. Reisch of Miner County, Howard, South Dakota, to
27 the position of Adjutant General and returns the same with the recommendation that the Senate
28 advise and consent to the confirmation of said reappointment, and that said reappointment be
29 placed on the consent calendar.

1 Also MR. PRESIDENT:

2 The Committee on State Affairs respectfully reports that it has had under consideration the
3 nomination of Larry Zimmerman of Pennington County, Rapid City, South Dakota, to the
4 position of Secretary of the Department of Veterans Affairs and returns the same with the
5 recommendation that the Senate advise and consent to the confirmation of said reappointment,
6 and that said reappointment be placed on the consent calendar.

7 Respectfully submitted,
8 Tim Rave, Chair

9 **MESSAGES FROM THE HOUSE**

10 MR. PRESIDENT:

11 I have the honor to return herewith SB 43 and 48 which have been amended by the House
12 and your concurrence in the amendments is respectfully requested.

13 Also MR. PRESIDENT:

14 I have the honor to return herewith SB 24, 30, 37, 41, 45, 47, 49, 63, 81, 94, 113, 118, and
15 128 which have passed the House without change.

16 Also MR. PRESIDENT:

17 I have the honor to return herewith SCR 8 in which the House has concurred.

18 Respectfully,
19 Arlene Kvislen, Chief Clerk

20 **MOTIONS AND RESOLUTIONS**

21 HCR 1008: A CONCURRENT RESOLUTION, Urging Congress and the President to
22 recognize tribal identification cards as a valid form of identification for all official purposes.

23 Was read the second time.

24 Sen. Heinert moved that the Senate do concur in HCR 1008 as found on page 493 of the
25 House Journal.

26 The question being on Sen. Heinert's motion that HCR 1008 be concurred in.

1 And the roll being called:

2 Yeas 31, Nays 2, Excused 2, Absent 0

3 Yeas:

4 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Frerichs; Greenfield (Brock); Haggar
5 (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman; Monroe;
6 Novstrup (David); Olson; Parsley; Peters; Peterson (Jim); Rempelberg; Rave; Rusch; Soholt;
7 Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

8 Nays:

9 Ewing; Omdahl

10 Excused:

11 Jensen (Phil); Otten (Ernie)

12 So the motion having received an affirmative vote of a majority of the members-elect, the
13 President declared the motion carried and HCR 1008 was concurred in.

14 Sen. Rave moved that HB 1049, 1059, 1047, and 1128 be placed to follow HB 1080 on
15 today's calendar.

16 Which motion prevailed.

17 **CONSIDERATION OF REPORTS OF COMMITTEES**

18 Sen. Rave moved that the reports of the Standing Committees on

19 Commerce and Energy on HB 1103 as found on page 558 of the Senate Journal; also

20 Appropriations on HB 1190 as found on page 556 of the Senate Journal; also

21 Appropriations on HB 1191 as found on page 557 of the Senate Journal be adopted.

22 Which motion prevailed.

23 **CONSIDERATION OF EXECUTIVE APPOINTMENTS CONSENT CALENDAR**

24 The Senate proceeded to the consideration of the executive reappointment of Lucas
25 Lentsch of Hughes County, Pierre, South Dakota, as the Secretary of the Department of
26 Agriculture.

1 The question being "Does the Senate advise and consent to the executive reappointment
2 of Lucas Lentsch pursuant to the executive message as found on page 430 of the Senate
3 Journal?"

4 And the roll being called:

5 Yeas 33, Nays 0, Excused 2, Absent 0

6 Yeas:

7 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
8 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman;
9 Monroe; Novstrup (David); Olson; Omdahl; Parsley; Peters; Peterson (Jim); Rampelberg; Rave;
10 Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

11 Excused:

12 Jensen (Phil); Otten (Ernie)

13 So the question having received an affirmative vote of a majority of the members-elect, the
14 President declared the reappointment confirmed.

15 The Senate proceeded to the consideration of the executive reappointment of David Emery
16 of Pennington County, Rapid City, South Dakota, to the S.D. Ellsworth Development Authority.

17 The question being "Does the Senate advise and consent to the executive reappointment
18 of David Emery pursuant to the executive message as found on page 442 of the Senate Journal?"

19 And the roll being called:

20 Yeas 33, Nays 0, Excused 2, Absent 0

21 Yeas:

22 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
23 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman;
24 Monroe; Novstrup (David); Olson; Omdahl; Parsley; Peters; Peterson (Jim); Rampelberg; Rave;
25 Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

26 Excused:

27 Jensen (Phil); Otten (Ernie)

28 So the question having received an affirmative vote of a majority of the members-elect, the
29 President declared the reappointment confirmed.

30 The Senate proceeded to the consideration of the executive reappointment of Pat Costello
31 of Lincoln County, Sioux Falls, South Dakota, as the Commissioner of the Governor's Office
32 of Economic Development.

The question being "Does the Senate advise and consent to the executive reappointment of Pat Costello pursuant to the executive message as found on page 426 of the Senate Journal?"

And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:

Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock); Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman; Monroe; Novstrup (David); Olson; Omdahl; Parsley; Peters; Peterson (Jim); Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

Excused:

Jensen (Phil); Otten (Ernie)

So the question having received an affirmative vote of a majority of the members-elect, the President declared the reappointment confirmed.

The Senate proceeded to the consideration of the executive reappointment of Marcia Hultman of Hughes County, Pierre, South Dakota, as the Secretary of the Department of Labor and Regulation.

The question being "Does the Senate advise and consent to the executive reappointment of Marcia Hultman pursuant to the executive message as found on page 427 of the Senate Journal?"

And the roll being called:

Yeas 33, Nays 0, Excused 2, Absent 0

Yeas:

Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock); Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman; Monroe; Novstrup (David); Olson; Omdahl; Parsley; Peters; Peterson (Jim); Rampelberg; Rave; Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

Excused:

Jensen (Phil); Otten (Ernie)

So the question having received an affirmative vote of a majority of the members-elect, the President declared the reappointment confirmed.

1 SECOND READING OF CONSENT CALENDAR BILLS AND RESOLUTIONS

2 HB 1082: FOR AN ACT ENTITLED, An Act to allow a law enforcement officer to issue
3 a citation without a notary.

4 Was read the second time.

5 The question being "Shall HB 1082 pass as amended?"

6 And the roll being called:

7 Yeas 33, Nays 0, Excused 2, Absent 0

8 Yeas:

9 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
10 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman;
11 Monroe; Novstrup (David); Olson; Omdahl; Parsley; Peters; Peterson (Jim); Rampelberg; Rave;
12 Rusch; Soholt; Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

13 Excused:

14 Jensen (Phil); Otten (Ernie)

15 So the bill having received an affirmative vote of a majority of the members-elect, the
16 President declared the bill passed and the title was agreed to.

17 SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

18 HB 1201: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
19 planning and zoning.

20 Was read the second time.

21 1201jb

22 Sen. Cammack moved that HB 1201 be amended as follows:

23 On page 3, line 10, of the House engrossed bill, delete "shall" and insert "may".

24 Which motion prevailed.

25 The question being "Shall HB 1201 pass as amended?"

26 And the roll being called:

1 Yeas 22, Nays 11, Excused 2, Absent 0

2 Yeas:

3 Brown; Cammack; Curd; Ewing; Haverly; Heineman (Phyllis); Holien; Lederman; Monroe;
4 Novstrup (David); Olson; Omdahl; Peters; Rampelberg; Rave; Rusch; Soholt; Solano;
5 Tidemann; Tieszen; Vehle; White

6 Nays:

7 Bradford; Buhl O'Donnell; Frerichs; Greenfield (Brock); Haggar (Jenna); Heinert; Hunhoff
8 (Bernie); Parsley; Peterson (Jim); Sutton; Van Gerpen

9 Excused:

10 Jensen (Phil); Otten (Ernie)

11 So the bill having received an affirmative vote of a majority of the members-elect, the
12 President declared the bill passed and the title was agreed to.

13 HB 1142: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the
14 age requirements for sex offender registry registration.

15 Was read the second time.

16 The question being "Shall HB 1142 pass?"

17 And the roll being called:

18 Yeas 32, Nays 0, Excused 3, Absent 0

19 Yeas:

20 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
21 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman;
22 Monroe; Olson; Omdahl; Parsley; Peters; Peterson (Jim); Rampelberg; Rave; Rusch; Soholt;
23 Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

24 Excused:

25 Jensen (Phil); Novstrup (David); Otten (Ernie)

26 So the bill having received an affirmative vote of a majority of the members-elect, the
27 President declared the bill passed and the title was agreed to.

28 HB 1173: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding
29 liability of parties involved in frivolous or malicious civil actions.

30 Was read the second time.

31 The question being "Shall HB 1173 pass as amended?"

1 And the roll being called:

2 Yeas 28, Nays 4, Excused 3, Absent 0

3 Yeas:

4 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
5 Haggar (Jenna); Haverly; Heineman (Phyllis); Holien; Lederman; Monroe; Olson; Omdahl;
6 Peters; Peterson (Jim); Rampelberg; Rave; Rusch; Soholt; Solano; Tidemann; Tieszen; Van
7 Gerpen; Vehle; White

8 Nays:

9 Heinert; Hunhoff (Bernie); Parsley; Sutton

10 Excused:

11 Jensen (Phil); Novstrup (David); Otten (Ernie)

12 So the bill having received an affirmative vote of a majority of the members-elect, the
13 President declared the bill passed and the title was agreed to.

14 HB 1145: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
15 payment of salary and compensation to legislators.

16 Was read the second time.

17 1145oa

18 Sen. Brown moved that HB 1145 be amended as follows:

19 On page 1, line 6, of the printed bill, delete "attending the inauguration of constitutional"
20 and insert "taking the oath of office".

21 On page 1, line 7, delete "officers".

22 On page 2, line 1, delete "inauguration of constitutional officers" and insert "taking of the
23 oath of office".

24 Which motion prevailed.

25 The question being "Shall HB 1145 pass as amended?"

26 And the roll being called:

27 Yeas 22, Nays 10, Excused 3, Absent 0

1 Yeas:

2 Brown; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock); Haggar (Jenna); Haverly;
3 Heineman (Phyllis); Holien; Lederman; Monroe; Olson; Omdahl; Peters; Rampelberg; Rave;
4 Rusch; Soholt; Solano; Tidemann; Tieszen

5 Nays:

6 Bradford; Buhl O'Donnell; Heinert; Hunhoff (Bernie); Parsley; Peterson (Jim); Sutton; Van
7 Gerpen; Vehle; White

8 Excused:

9 Jensen (Phil); Novstrup (David); Otten (Ernie)

10 So the bill having received an affirmative vote of a majority of the members-elect, the
11 President declared the bill passed and the title was agreed to.

12 HB 1002: FOR AN ACT ENTITLED, An Act to make an appropriation to the Department
13 of Revenue to provide for the electronic submission of reports and taxes related to alcoholic
14 beverages and to declare an emergency.

15 Was read the second time.

16 Sen. Rave moved that HB 1002 be laid on the table.

17 The question being on Sen. Rave's motion that HB 1002 be laid on the table.

18 And the roll being called:

19 Yeas 32, Nays 0, Excused 3, Absent 0

20 Yeas:

21 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
22 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman;
23 Monroe; Olson; Omdahl; Parsley; Peters; Peterson (Jim); Rampelberg; Rave; Rusch; Soholt;
24 Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

25 Excused:

26 Jensen (Phil); Novstrup (David); Otten (Ernie)

27 So the motion having received an affirmative vote of a majority of the members-elect, the
28 President declared the motion carried.

29 HB 1080: FOR AN ACT ENTITLED, An Act to authorize the use of investigational
30 treatments for patients under certain conditions and to restrict certain causes of action arising
31 from investigational treatment.

1 Was read the second time.

2 1080jb

3 Sen. Curd moved that HB 1080 be amended as follows:

4 On page 2, line 14, of the House engrossed bill, after "minor," insert "or substitute
5 informed consent from an appointed guardian, an attorney-in-fact, or a person with authority
6 pursuant to chapter 34-12C, if the patient is incapacitated as defined in § 34-12C-1,".

7 Which motion prevailed.

8 The question being "Shall HB 1080 pass as amended?"

9 And the roll being called:

10 Yeas 32, Nays 0, Excused 3, Absent 0

11 Yeas:

12 Bradford; Brown; Buhl O'Donnell; Cammack; Curd; Ewing; Frerichs; Greenfield (Brock);
13 Haggar (Jenna); Haverly; Heineman (Phyllis); Heinert; Holien; Hunhoff (Bernie); Lederman;
14 Monroe; Olson; Omdahl; Parsley; Peters; Peterson (Jim); Rampelberg; Rave; Rusch; Soholt;
15 Solano; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; White

16 Excused:

17 Jensen (Phil); Novstrup (David); Otten (Ernie)

18 So the bill having received an affirmative vote of a majority of the members-elect, the
19 President declared the bill passed and the title was agreed to.

20 Sen. Rave moved that HB 1049, 1059, 1047, and 1128 be deferred to Thursday, March 5,
21 the 32nd legislative day.

22 Which motion prevailed.

23 **SIGNING OF BILLS**

24 The President publicly read the title to

25 SB 24: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to demolish
26 buildings on the campus of South Dakota State University and to make an appropriation
27 therefor.

1 SB 30: FOR AN ACT ENTITLED, An Act to revise the review process for rate and policy
2 form filing denials for insurers.

3 SB 37: FOR AN ACT ENTITLED, An Act to adopt the 2008 Uniform Interstate Family
4 Support Act, to repeal the 1996 Uniform Interstate Family Support Act, and to revise certain
5 provisions relating thereto.

6 SB 41: FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to
7 commercial driver licensing.

8 SB 45: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the sale
9 of unpasteurized raw milk.

10 SB 47: FOR AN ACT ENTITLED, An Act to make an appropriation from the coordinated
11 natural resources conservation fund to the State Conservation Commission and to declare an
12 emergency.

13 SB 49: FOR AN ACT ENTITLED, An Act to authorize the Department of Game, Fish and
14 Parks to sell a portion of railway right-of-way to the City of Deadwood.

15 SB 63: FOR AN ACT ENTITLED, An Act to adopt the Interstate Medical Licensure
16 Compact.

17 SB 81: FOR AN ACT ENTITLED, An Act to require persons convicted of driving a
18 vehicle while under influence of alcohol, drugs, or intoxicants to pay certain costs to the county.

19 SB 94: FOR AN ACT ENTITLED, An Act to establish a license fee for electric-powered
20 motorcycles.

21 SB 113: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the
22 fiscal impact statements prepared for legislation that impacts state prison or county jail
23 populations.

24 SB 118: FOR AN ACT ENTITLED, An Act to provide additional transparency for
25 prescription drug plans.

26 SB 128: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the
27 general requirements that vehicle owners must satisfy before applying for military plates.

28 HB 1097: FOR AN ACT ENTITLED, An Act to provide for a reduced minimum fall
29 enrollment for certain school districts.

30 HB 1100: FOR AN ACT ENTITLED, An Act to clarify how a vacancy on a school board
31 is filled.

1 HB 1137: FOR AN ACT ENTITLED, An Act to exclude the passing time between classes
2 in the number of hours required in the school term for secondary students.

3 And signed the same in the presence of the Senate.

4 Sen. Tieszen moved that the Senate do now adjourn, which motion prevailed and at
5 3:47 p.m. the Senate adjourned.

6 Kay Johnson, Secretary